IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 662 (MS) OF 2006

1. Sudesh Kumar Arora,
   S/o Shir Mulakh Raj Arora, at present R/o House No. 224, Sector-3, Pocket E-20, Rohini, New Delhi-85.
2. Smt. Harsh Arora, W/o Shri Sudesh Kumar Arora, R/o House No. 224 Sector-3 , Pocket E-20, Rohini, New Delhi-85. .....Petitioners.

Versus

1. Civil Judge (S.D.), Haridwar.
2. Anil Kumar, S/o Shri Ramesh Chandra, R/o Village Atmal Pur Bongla, Tehsil and District Haridwar.
3. Vinod Prakash, S/o Shri Multan Singh, R/o Village Atmal Pur Bongla, Tehsil and District Haridwar.
4. Smt. Saroj Bala, W/o Shri Vinod Prakash R/o Village Atmal Pur Bongla, Tehsil and District Haridwar.

.....Respondents.

Dated: 08.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Alok Singh, Sr. Advocate, assisted by Sri Dharmendra Barthwal, Advocate for the petitioner and Standing Counsel for the respondent no. 1. Both the parties have agreed that let the matter be finally disposed of at the admission stage.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order (Annexure No. 1 to the writ petition).

Briefly stated, a suit being Sut No. 15 of 2005 was filed for permanent prohibitory injunction. The petitioners have submitted that the suit was decreed ex parte on 17.10.2005, they have filed an application for restoration under Order IX Rule 13 of the C.P.C. as well as under Section 151 of C.P.C. Both are pending before the Civil Judge, Sr. Division, Haridwar.

The grievance of the petitioners are that the courts are closed and due to that it is very difficult for them to file any other application during vacation.

So far as the order dated 30.05.2006 is concerned, I do not find any illegality in the order in as much as the court has only fixed the date and the application having not been rejected as yet, no cause of action accrued to the petitioner.

Further, so far as the application under Order IX Rule 13 of the C.P.C. is concerned, the same will be decided on merits.

However, since the courts are closed, therefore, by interim measure for a period of six weeks only before the Civil Judge, Sr. Division, the parties are directed to maintain status quo.

The Civil Judge on that date is directed to consider both the applications for disposal under Section 151 of C.P.C. as well as under Orders IX Rule 13 of C.P.C.

Subject to the aforesaid observations, writ petition is dismissed.

(Rajesh Tandon, J.)

08.06.2006
Rathour